

State of New Jersey
Department of Labor and Workforce Development
Board of Review

MEMORANDUM

To: Cornelia Calderone, Chair, Joseph Sieber,
Vice Chairman, and Frank Serico, Member

From: Gerald Yarbrough, Executive Secretary
Board of Review

Subject: Minutes of the February 8, 2006
Board of Review Meeting

Date: February 9, 2006

THESE MINUTES HAVE NOT BEEN FORMALLY APPROVED AND ARE SUBJECT TO
CHANGE OR MODIFICATION BY THE BOARD OF REVIEW AT ITS NEXT MEETING.

1. **FORMAL OPENING:** A regular meeting of the Board of Review, Department of Labor was held on Wednesday, February 8, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7th Floor, Large Conference Room, Trenton, New Jersey. Notice of said meeting was posted in the Board of Review's office, filed with the Secretary of State, and published annually in *The Trenton Times* and *The Star Ledger*. It was noted that the next regular meeting of the Board of Review is scheduled for Wednesday, February 15, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7th Floor, Large Conference Room, Trenton, New Jersey.

Roll Call: Present: Mrs. Calderone, Chair
Mr. Sieber, Vice Chair
Mr. Serico, Member
Mr. Yarbrough, Executive Secretary

2. Following a motion by Mr. Serico and seconded by Mr. Sieber, the minutes of the February 1, 2006 meeting were approved.

3. New Business

(a) 93, 925 (93, 926 through 93, 934)

Ms. Keller presented these cases that involved claimants who were held entitled to benefits as they were able and available for work. The employer disputed the claimant's entitlement to benefits, contending they were unavailable for work. The Appeal Tribunal dismissed the employer's appeal as the employer presented no evidence to dispute the determinations of eligibility. After discussion, the Board voted to affirm the Appeal Tribunal with the additional sentence indicating that given the short period of unemployment and if the Board reviewed the issue, the claimants would have been eligible for benefits. Mr. Serico recused himself from this case.

(b) 92,611

Ms. Keller described this case that involved a claimant who was discharged by the employer. The Appeal Tribunal had held the claimant not disqualified under N.J.S.A. 43:21-5(b). The Board noted that the Appeal Tribunal did not make a finding as to the reason the claimant was discharged in the Findings of Fact. Also, the claimant's letter of discharge is not in the file. As a result, the Board voted to remand the case for additional testimony regarding the reason the claimant was discharged. Ms. Keller will prepare the remand.

(c) 93, 346

As presented by Ms. Abrunzo, this case involved a claimant who took two weeks off work because her mother was ill. When the claimant returned to work, no work was available. The claimant requested a leave of absence and was told the employer could not hold her job. The Appeal Tribunal had held the claimant not disqualified under N.J.S.A. 43:21-5(a), but disqualified under N.J.S.A. 43: 21-5(b). The Board noted that there was no testimony regarding whether the employer had a leave of absence policy, and the Appeal Tribunal finding on that matter is not supported by the record. As a result, the Board voted to remand the case for additional testimony from the claimant and the employer's firsthand witness who shall be subpoenaed. Ms. Abrunzo will prepare the remand.

(d) 89, 777

This matter was tabled

(e) 93, 368

As described by Mr. Maddow, this case involved a claimant who worked for the employer as part of a work study program. The claimant was offered work by the employer after the program ended. She refused the offer as she was going to attend college. The Appeal Tribunal had held the claimant disqualified for benefits under N.J.S.A. 43:21-5(c). The Appeal Tribunal also held that the claimant's wages from the employer could not be used to establish a claim for unemployment benefits as the services are exempt. After discussion, the Board voted to affirm the Appeal Tribunal.

(f) 93, 392

Ms. Barnwell presented this case that involved a claimant who was discharged by the employer for sleeping on the job as well as urinating in bottles at the worksite. The Appeal Tribunal had held the claimant not disqualified for benefits under N.J.S.A. 43:21- 5(b) and ineligible for benefits from under N.J.S.A. 43:21-4(c) The Board noted that the Appeal Tribunal's facts are not reflective of the record and the reason for the claimant 's discharge constituted misconduct connected with the work. As a result, the Board voted to modify the Appeal Tribunal holding the claimant

disqualified under N.J.S.A. 43:21-5(b). Ms. Barnwell will prepare the decision.

There being no further business to transact, a motion was made by Mr.Sieber to adjourn the meeting. Mr. Serico seconded the motion.

SUBMITTED FOR APPROVAL:

Gerald Yarbrough
Executive Secretary

GY:gs